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**San Mateo County
Pesticide Regulatory Program
2006/2007 Performance Evaluation Report
DRAFT**

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Performance Evaluation of San Mateo County Agricultural Commissioner's Pesticide Use Enforcement Program

This report provides a performance evaluation of San Mateo County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for fiscal year (FY) 2006/2007. The assessment evaluates the performance of goals identified in the CAC's Enforcement Work Plan (EWP) as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and EWP goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and EWP goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and EWP goals.

Summary Statement:

No major deficiencies have been identified in the San Mateo CAC's PUE program. The Enforcement Branch Liaison (EBL) has been unable to conduct many oversight inspections with the county staff prior to this evaluation due to light brown apple moth trapping and staff reduction. The 2005-2006 EWP was evaluated and the EBL has talked with the Deputy to determine the effectiveness of the PUE program. The program was assessed as currently effective based on that information.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

DPR and the CACs must assure the Restricted Materials Permit (RMP) system protects people and the environment while allowing for effective pest management. For effective implementation of the permit system, CACs must continuously evaluate the hazards posed by proposed applications and the knowledge of the restricted permit applicant. The restricted materials permitting program element was found to meet DPR standards and EWP goals.

1) Permit Issuance

Permit issuance procedures and performance were found to conform to DPR standards and expectations. The Biologists that issue permits all possess Pesticide Regulation and Investigation and Environmental Monitoring licenses. The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for time periods allowed by law; and
- Permit amendments follow approved procedures.

The San Mateo CAC only issues restricted materials permits for a one-year period. Approximately 83 restricted materials permits, five non-agricultural permits and 56 Operator I.D.s were issued in FY 2005/2006. The PUE Deputy gives annual training on the policies and procedures used to issue permits and properly identify sites.

2) Site Evaluation

The RMP site evaluation should utilize the CAC's knowledge of pesticide hazards, local conditions, cropping, and fieldwork patterns, as well as handler, permittee and advisor compliance histories to address local, multi-county, and/or regional issues. The CAC reviewed approximately 394 Notices of Intent (NOI) in fiscal year 2006-2007. The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all NOIs in a timely manner and adequately monitored agricultural and nonagricultural permits utilizing pre-application site evaluations and use monitoring inspections.

NOIs are received by fax machine, telephone and answering machine. Certified pesticide enforcement staff reviews the NOIs and compares them to the permits on file in the office. One Biologist is scheduled to remain in the main office each day and is responsible for initial review of the days' NOIs and permit issuance. Each Biologist in the field has a cellular telephone and is often contacted to check sites in sensitive areas when NOIs are submitted.

The office duty Biologist reviews all NOIs and then forwards the NOI information to the Biologist assigned to the permittee and or to the PUE Deputy. The assigned Biologist may be contacted by phone (including cell phones in some cases), or fax and receives a copy of each NOI for their assigned permittees. Permits are issued by a Biologist with a specific assignment of a group of permittees. Permits are not issued by the office duty Biologist except by arrangement with the assigned Biologist who performs the permit evaluation and prepares the paperwork

B) Compliance Monitoring:

DPR's strategic goal to reduce risks to people and the environment depends on an effective and comprehensive compliance monitoring program. Inspections and investigations allow CACs to identify and respond to potential hazards to the

workers, the public, and the environment. To assure an effective compliance monitoring program, CACs must enforce broad-based and comprehensive inspections, identify the number of inspections necessary to maintain an enforcement presence effective at deterring violators, and conduct thorough and timely investigations. The compliance monitoring program element was found to meet DPR standards and EWP goals.

1) Inspections

An effective inspection strategy encompasses a broad spectrum of pesticide handling situations and responds quickly to local issues. The focus should be on a balance between planned and spontaneous inspections. Inspections should have broad coverage, and also focus on areas of the greatest risk. The program was found to conform to DPR standards and expectations.

- Biologists performing inspections possess Pesticide Regulation and Investigation and Environmental Monitoring licenses.
- Inspections are performed according to the inspection strategy documented in the CAC's EWP.
- Inspections are performed according to DPR policies and procedures and inspection reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.
- The Biologists also review the compliance history for the firm/person inspected and meet with the Deputy before issuing a violation notice. The PUE Deputy is responsible for approving violation notices, case files, and Notices of Proposed Action (NOPAs). The county may create a compliance committee that assists in compliance decisions.
- There needs to be improved communications and coordination between DPR's assigned EBL and the county associated with setting up times when the DPR EBL can meet with Biologists to conduct oversight inspections.
- The EBL has been unable to conduct many oversight inspections with the county staff prior to this evaluation due to light brown apple moth trapping and staff reduction.

Inspections performed by the CAC were found to:

- Adequately document non-compliances/violations; and
- Include appropriate follow-up inspections and procedures.

2) Investigations

DPR and CACs have the responsibility to investigate episodes that may involve potential or actual human illness, injury, property damage, loss or contamination, and environmental effects allegedly resulting from the use, or presence of a pesticide in a timely and thorough manner. The investigation program meets DPR's standards and EWP goals for the following reasons:

- The CAC investigates all complaints and complete their reports in a timely manner. The CAC refers and/or notifies DPR and other agencies as required.

- All of the staff of the San Mateo CAC's office that conduct PUE investigations possess Pesticide Regulation and Investigation and Environmental Monitoring licenses.
- All PUE Biologists attended the Pesticide Episode Investigation Training in 2006. Training on investigative sampling is provided to the staff on an annual basis.
- Investigations are thorough and complete and are submitted on approved forms and in the approved format. The investigations document violations and the CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

Investigations performed by the CAC were found to:

- Adequately address label, law and regulatory requirements, if applicable; and
- Include interviews of employers and employees as appropriate.

C) Enforcement Response:

To realize the full benefit of the comprehensive and effective statewide pesticide regulatory program, DPR and the CACs must apply our enforcement authority fairly, consistently, and swiftly. Our joint enforcement response should emphasize worker and environmental safety and promote deterrence. The enforcement response program element was found to meet DPR standards and EWP goals for the following reasons:

- San Mateo County Biologists send decision reports (DRs) to DPR for Enforcement Response Regulation (ERR) submission.
- Biologists are adapting to determining what appropriate category (A, B or C) the non-compliances belong in when writing DRs and are writing the details of the inspections and explanations associated with justification for their enforcement/compliance decisions. The Biologists and Deputy are currently asking for assistance from the EBL in developing DRs prior to final submission of the compliance justification to DPR.
- The county may create a compliance committee that assists in compliance decisions.

III. Recommended Corrective Actions

- DPR evaluated the 2005-2006 EWP to determine if the three core programs are adequately presented and that they are evaluated by the county themselves in association with the evaluation criteria supplied to the county by the DPR. DPR has determined that San Mateo CAC needed to critically self-evaluate the three core programs to determine strengths, areas needing improvement and the need to develop a plan for improvement within their 2006-2007 EWP.
- There has been no increase in the opportunity for the EBL to conduct oversight inspections performed with the county, as stated in their 2005-2006 EWP. There needs to be improved communications and

coordination between DPR's assigned EBL and the county associated with setting up times when the EBL can meet with Biologists to conduct oversight inspections.

- The Deputy and I discussed that the current PUE tracking system should be revamped to include follow-up, compliance history review and enforcement/compliance action tracking, as stated in the 2005-2006 EWP.
- The ERR is being implemented, but was not mentioned in the 2005-2006 EWP. At the initial writing of this evaluation, Decision Reports were still outstanding in association with non-compliances discovered during FY 2006/2007. The Biologists and Deputy are currently asking for assistance from the EBL in developing DRs prior to final submission of the compliance justification to DPR.

IV. Corrective Actions Previously identified

There were no corrective actions previously identified in the 2005-2006 evaluation.

V. Non-Core and Desirable Activities

- The following Non-Core Activities were discussed in the FY 2005-2006 EWP. The FY 2005-2006 EWP mentions Training and Outreach activities in the description of the CAC's compliance monitoring program. These activities include grower/certified private applicator continuing education workshop and a bilingual field worker safety training annual workshop. The FY 2005/2006 EWP also describes the Pesticide Use Reporting System, Private Applicator Certification and County Registration/Notification of Licensees, which the county describes as non-core activities.